IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

W.P(C).No. 35057 of 2007(W)

PETITIONER:

GEORGE JOSEPH, S/O.LATE JOSEPH,
VAZHATHARA HOUSE, UDAYAMPEROOR,
THRIPUNITHURA, ERNAKULAM DISTRICT.

BY ADV. SRI.K.K.BABU
SMT.N.N.GIRIJA

RESPONDENTS:
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1. **THE WELFARE FUND INSPECTOR,**
   KERALA TODDY WORKERS WELFARE FUND BOARD,
   THODUPUZHA P.O., IDUKKI DIST.

2. **THE VILLAGE OFFICER, MANAKKUNNAM**
   VILLAGE, UDAYAMPEROOR P.O.,
   ERNAKULAM DISTRICT.

3. **K.S.SAJEEVAN, S/O.SIVARAMAN,**
   KARIKALATHIL HOUSE, KALLARKUTTY P.O.,
   DEVIKULAM TALUK, IDUKKI DISTRICT.

4. **K.N.THILAKAN, S/O.NANU,**
   KADAMOOLAYIL HOUSE, P.O.MADUKKAM,
   ERUMELY NORTH.

5. **JOSE.M.D., MUNTHIRINGATT KUNNEL,**
   MUTTAM P.O., THODUPUZHA.

6. **C.K.CHANDRAN, CHOWELIKUDI HOUSE,**
   ADIMALY P.O., DEVIKULAM TALUK.

7. **P.M.ELDHOSE, PUTHETHU HOUSE,**
   ADIMALI P.O., ADIMALI, IDUKKI DIST.

BY ADV. SRI. RENIL ANTO, SC FOR KTWWFB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 35057 OF 2007 W

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Dated this the 17yh December, 2007

J U D G M E N T

The prayer sought for in this writ petition is to direct the 2nd respondent not to initiate any recovery proceedings against the petitioner in pursuance to Ext. P1 recovery notice. There is a further prayer to initiate recovery proceedings against respondents 3 to 7 who according to the petitioner were the licensees of toddy shop Nos. 75 to 109 of Idukki Range.

2. Petitioner submits that final determination order was passed against the petitioner and also respondents 3 to 7. It is his contention that while he was only the Manager of the shop, respondents 3 to 7 were the actual licensees. According to him, he was not liable for making any payment, but then inspite of it, when revenue recovery proceedings were initiated he has remitted Rs.1 lakh and Ext. P2 receipt is referred to in this context. Petitioner also submits that by Ext. P3 the 7th respondent has deposited an amount

of Rs.91,508/- . On these pleadings, petitioner seeks a direction that respondents 3 to 6, who is stated to have not made any remittance, should be proceeded against for realising the balance due.

3. The fact remains that the petitioner has been found to be an employee. Final Determination Order has also been passed by the 1st respondent. The Final Determination Order having become final between the parties it is not open to the petitioner to raise the plea that he is not an employer or that he is liable to make remittance of the dues.

4. The liability being joint and several it is open to the 1st respondent to initiate recovery proceedings against any one of the persons who have been found to be liable. Such action of the 1st respondent cannot be faulted.

5. It is rightly pointed out on behalf of the 1st respondent that the remittance made by the petitioner does not pertain to the dues that is sought to be recovered by Ext. P1. Ext. P1 revenue recovery notice itself shows that the recovery effected is for the period 1999-2000. On the other hand, Ext. P2 receipt, according to the Standing Counsel, was towards the liability for the period 2002-03. If that be

so, the petitioner cannot take shelter under the remittance made as per Ext. P2. Ext. P3 also does not disclose the period against which the remittance has been made.

6. In these circumstances, particularly when the liability is joint and several, I am not inclined to pass the order sought for.

Writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-